

Conference Engrossed

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 233

SENATE BILL 1046

AN ACT

AMENDING SECTION 1-261, ARIZONA REVISED STATUTES; REPEALING SECTION 16-153, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 124, SECTION 5; AMENDING SECTIONS 16-312, 16-343, 16-351, 16-542 AND 16-661, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS AND ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 1-261, Arizona Revised Statutes, is amended to read:

1-261. Withdrawal of petition signature; payment of remuneration; violation; classification

A. A person who has signed a petition prescribed by statute for any CANDIDATE NOMINATION, initiative, referendum or formation or modification of a county, municipality or district may withdraw his THE PERSON'S signature from the petition not later than 5:00 p.m. ~~on the date set by law for filing of the petition, or if no date is set by law, 5:00 p.m. on the date the~~ petition containing the person's signature is actually filed. A person who has signed a recall petition may withdraw his THE PERSON'S signature from the petition not later than 5:00 p.m. on the date the petition containing the person's signature is actually submitted for verification pursuant to section 19-203.

B. To withdraw a petition signature, a person may do any of the following:

1. Verify the withdrawal by signing a simple statement of intent to withdraw at the office of the receiving officer.

2. Mail a signed, notarized statement of intent to withdraw to the receiving officer.

3. Draw a line through the signature and printed name on the petition.

C. A signature withdrawn pursuant to subsection B of this section and received by the receiving officer within the time provided for in subsection A of this section shall not be counted in determining the legal sufficiency of the petition.

D. A person who knowingly gives or receives money or any other thing of value for signing a statement of signature withdrawal pursuant to subsection B of this section is guilty of a class 1 misdemeanor.

Sec. 2. Repeal

Section 16-153, Arizona Revised Statutes, as amended by Laws 2001, chapter 124, section 5, is repealed.

Sec. 3. Section 16-312, Arizona Revised Statutes, is amended to read:

16-312. Filing of nomination papers for write-in candidates

A. Any person desiring to become a write-in candidate for an elective office in any election shall file a nomination paper, signed by the candidate, giving the person's actual residence address or description of place of residence and post office address, age, length of residence in the state and date of birth.

B. A write-in candidate shall file the nomination paper no later than 5:00 p.m. on the fourteenth FORTIETH day prior to the election, EXCEPT THAT A CANDIDATE RUNNING AS A WRITE-IN CANDIDATE AS PROVIDED IN SECTION 16-343, SUBSECTION D, SHALL FILE THE NOMINATION PAPER NO LATER THAN 5:00 P.M. ON THE FIFTH DAY BEFORE THE ELECTION. The write-in filing procedure shall be in the same manner as prescribed in section 16-311. Any person who does not file a

1 timely nomination paper shall not be counted in the tally of ballots. The
2 filing officer shall not accept the nomination paper of a candidate for state
3 or local office unless it is accompanied by both of the following:

4 1. A political committee statement of organization or the five hundred
5 dollar threshold exemption statement.

6 2. The financial disclosure statement as prescribed for candidates for
7 that office.

8 C. The secretary of state shall notify the various boards of
9 supervisors as to write-in candidates filing with the secretary of state's
10 office. The county school superintendent shall notify the appropriate board
11 of supervisors as to write-in candidates filing with the superintendent's
12 office. The board of supervisors shall notify the appropriate election board
13 inspector of all candidates who have properly filed such statements. In the
14 case of a city or town election, the city or town clerk shall notify the
15 appropriate election board inspector of candidates properly filed. No other
16 write-ins shall be counted. The election board inspector shall post the
17 notice of official write-in candidates in a conspicuous location within the
18 polling place.

19 D. Except as provided in section 16-343, subsection E, a candidate may
20 not file pursuant to this section if any of the following applies:

21 1. For a candidate in the general election, the candidate ran in the
22 immediately preceding primary election and failed to be nominated to the
23 office sought in the current election.

24 2. For a candidate in the general election, the candidate filed a
25 nomination petition for the immediately preceding primary election for the
26 office sought and failed to provide a sufficient number of valid petition
27 signatures as prescribed by section 16-322.

28 3. For a candidate in the primary election, the candidate filed a
29 nomination petition for the current primary election for the office sought
30 and failed to provide a sufficient number of valid petition signatures as
31 prescribed by section 16-322.

32 E. A person who files a nomination paper pursuant to this section for
33 the office of president of the United States shall designate in writing to
34 the secretary of state at the time of filing the name of the candidate's
35 vice-presidential running mate, the names of presidential electors who will
36 represent that candidate and a statement signed by the vice-presidential
37 running mate and designated presidential electors that indicates their
38 consent to be designated. A nomination paper for each presidential elector
39 designated shall be filed with the candidate's nomination paper. The number
40 of presidential electors shall equal the number of United States senators and
41 representatives in Congress from this state.

1 Sec. 4. Section 16-343, Arizona Revised Statutes, is amended to read:
2 16-343. Filling vacancy caused by death or incapacity or
3 withdrawal of candidate

4 A. A vacancy occurring due to death, mental incapacity or voluntary
5 withdrawal of a candidate after the close of petition filing but prior to a
6 primary or general election shall be filled by the political party with which
7 the candidate was affiliated as follows:

8 1. In the case of a United States senator or statewide candidate, the
9 state executive committee of the candidate's political party shall nominate
10 a candidate of the party's choice and shall file a nomination paper and
11 affidavit complying with the requirements for candidates as stated in section
12 16-311 in order to fill the vacancy.

13 2. In the case of a vacancy for the office of United States
14 representative or the legislature, the party precinct committeemen of that
15 congressional or legislative district shall nominate a candidate of the
16 party's choice and shall file a nomination paper and affidavit complying with
17 the requirements of section 16-311.

18 3. In the case of a vacancy for a county or precinct office, the party
19 county committee of counties with a population of less than two hundred fifty
20 thousand persons according to the most recent United States decennial census
21 and, in counties with a population of two hundred fifty thousand persons or
22 more according to the most recent United States decennial census the county
23 officers of the party together with the chairman of the party precinct
24 committeemen in each legislative district of the county, shall nominate a
25 candidate of the party's choice and shall file a nomination paper and
26 affidavit complying with the requirements of section 16-311 to fill such
27 vacancy.

28 B. The nomination paper and affidavit required in subsection A of this
29 section shall be filed with the office with which nomination petitions were
30 to be filed at any time before the official ballots are printed.

31 C. Any meetings for the purpose of filing a nomination paper and
32 affidavit provided for in this section shall be called by the chairman of
33 such committee or legislative district, except that in the case of
34 multicounty legislative or congressional districts the party county chairman
35 of the county having the largest geographic area within such district shall
36 call such meeting. The chairman or in his absence the vice-chairman calling
37 such meeting shall preside. The call to such meeting shall be mailed or
38 given in person to each person entitled to participate therein no later than
39 one day prior to such meeting. A majority of those present and voting shall
40 be required to fill a vacancy pursuant to this section.

41 D. A vacancy which occurs following the printing of official ballots
42 shall not be filled in accordance with this section, however, prospective
43 candidates shall comply with the provisions of section 16-312. A CANDIDATE
44 RUNNING AS A WRITE-IN CANDIDATE UNDER THIS SUBSECTION SHALL FILE THE

1 NOMINATION PAPER NO LATER THAN 5:00 P.M. ON THE FIFTH DAY BEFORE THE
2 ELECTION.

3 E. Candidates nominated pursuant to subsection A of this section or
4 a candidate running as a write-in candidate under subsection D of this
5 section may be a candidate who ran in the immediately preceding primary
6 election for the office and failed to be nominated.

7 F. If a vacancy occurs as described in subsection A of this section
8 for a state office, the secretary of state shall notify the various boards
9 of supervisors as to the vacancy. The boards of supervisors shall notify the
10 inspectors of the various precinct election boards in the county, district
11 or precinct where a vacancy occurs. In the case of a city or town election,
12 the city or town clerk shall notify the appropriate inspectors.

13 G. The inspectors shall post the notice of vacancy in the same manner
14 as posting official write-in candidates. In the case of a withdrawal of a
15 candidate that occurs after the printing of official ballots, the inspectors
16 shall post the notice of withdrawal in a conspicuous location in each polling
17 place.

18 Sec. 5. Section 16-351, Arizona Revised Statutes, is amended to read:

19 16-351. Limitations on appeals of validity of nomination
20 petitions; disqualification of candidate

21 A. Any elector filing any court action challenging the nomination of
22 a candidate as provided for in this chapter shall do so ~~within ten days~~ NO
23 LATER THAN 5:00 P.M. OF THE TENTH DAY, excluding Saturday, Sunday and other
24 legal holidays, after the last day for filing nomination papers and
25 petitions. The elector shall specify in the action the petition number, line
26 number and basis for the challenge for each signature being challenged.
27 Failure to specify this information shall result in the dismissal of the
28 court action. Within ten days after the filing of the action, the superior
29 court shall hear and render a decision on the matter. Such decision shall
30 be appealable only to the supreme court, and notice of appeal shall be filed
31 within five days after the decision of the superior court in the action. The
32 supreme court shall hear and render a decision on the appeal promptly.

33 B. Any elector may challenge a candidate for any reason relating to
34 qualifications for the office sought as prescribed by law, including age,
35 residency or professional requirements, if applicable.

36 C. In any action challenging a nomination petition, the following
37 persons are indispensable parties to the action and shall be named and served
38 as defendants:

- 39 1. The candidate whose petition is the subject of the challenge.
- 40 2. The officer with whom the petitions are required to be filed.
- 41 3. The board of supervisors and the recorder of each county or the
42 clerk of each city or town who are responsible for preparing the ballots that
43 contain the challenged candidate's name.

D. For the purposes of an action challenging nomination petitions, the board of supervisors and the recorder of each county or the clerk of each city or town responsible for preparing the ballots that contain the challenged candidate's name and each person filing a nomination petition under this chapter appoints the officer with whom the candidate files his THE nomination paper and petitions as his THE PERSON'S agent to receive service of process. Process in an action challenging a nomination petition shall be served immediately after the action is filed and in no event more than twenty-four hours after filing the action excluding Saturdays, Sundays and other legal holidays. Immediately upon receipt of process served upon the officer as agent for a person filing a nomination petition, the officer shall mail the process to the person and shall notify him by telephone of the filing of the action.

E. Notwithstanding the system used pursuant to section 16-163, subsection D, the most current version of the general county register at the time of filing of a court action challenging a nomination petition shall constitute the official record to be used to determine on a prima facie basis by the challenger that the signer of a petition was not registered to vote at the address given on the date of signing of the petition. This subsection does not preclude the challenged candidate from introducing into evidence a certified copy of the registration form of any signer of a petition dated on or before the date of the signing of the petition if the registration form is in the possession of the county recorder but has not yet been filed in the general county register.

F. In addition to the procedures set forth in this section, all petitions that have been submitted by a candidate who is found guilty of petition forgery shall be disqualified and that candidate shall not be eligible to seek election to a public office for a period of not less than five years.

Sec. 6. Section 16-542, Arizona Revised Statutes, is amended to read: 16-542. Request for ballot

A. Within ninety days next preceding the Saturday before any election called pursuant to the laws of this state, an elector may make a verbal or signed request to the county recorder, or other officer in charge of elections for the applicable political subdivision of this state in whose jurisdiction the elector is registered to vote, for an official early ballot. In addition to name and address, the requesting elector shall provide the date of birth and state or country of birth or other information that if compared to the voter registration information on file would confirm the identity of the elector. If the request indicates that the elector needs a primary election ballot and a general election ballot, the county recorder or other officer in charge of elections shall honor the request. For any partisan primary election, if the elector is not registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the elector shall designate the ballot of only

1 one of the political parties that is entitled to continued representation on
2 the ballot and the elector may receive and vote the ballot of only that one
3 political party. The county recorder may establish on-site early voting
4 locations at the recorder's office or any other locations in the county the
5 recorder deems necessary.

6 B. Notwithstanding subsection A of this section, a request for an
7 official early ballot from an absent uniformed services voter or overseas
8 voter as defined in the uniformed and overseas citizens absentee voting act
9 of 1986 (P.L. 99-410; 42 United States Code section 1973) that is received
10 by the county recorder or other officer in charge of elections more than
11 ninety days next preceding the Saturday before the election is valid.

12 C. The COUNTY recorder or other officer in charge of elections shall
13 mail postage prepaid to the address provided by the requesting elector, which
14 address shall be the elector's residence address or the location where the
15 elector is temporarily residing while absent from the precinct, the early
16 ballot and the envelope for its return within five days after receipt of the
17 official early ballots from the officer charged by law with the duty of
18 preparing ballots pursuant to section 16-545. Only the elector may be in
19 possession of that elector's unvoted early ballot. If the A COMPLETE AND
20 CORRECT request is made by the elector within thirty days next preceding the
21 Saturday before the election, such mailing must be made within forty-eight
22 hours after receipt of the request. Saturdays, Sundays and other legal
23 holidays are excluded from the computation of the forty-eight hour period
24 prescribed by this subsection. If the A COMPLETE AND CORRECT request is made
25 by an absent uniformed services voter or an overseas voter more than ninety
26 days next preceding the Saturday before the election, the mailing shall be
27 made within twenty-four hours after the early ballots are delivered pursuant
28 to section 16-545, subsection B, excluding Sundays.

29 D. In order to BE COMPLETE AND CORRECT AND TO receive an early ballot
30 by mail, an elector's request that an early ballot be mailed to the elector's
31 residence or temporary address MUST INCLUDE ALL OF THE INFORMATION PRESCRIBED
32 BY SUBSECTION A OF THIS SECTION AND must be received by the county recorder
33 or other officer in charge of elections no later than 5:00 p.m. on the
34 eleventh day preceding the election. An elector who appears personally no
35 later than 5:00 p.m. on the Friday preceding the election at an on-site early
36 voting location that is established by the county recorder or other officer
37 in charge of elections shall be given a ballot and permitted to vote at the
38 on-site location. IF AN ELECTOR'S REQUEST TO RECEIVE AN EARLY BALLOT IS NOT
39 COMPLETE AND CORRECT BUT COMPLIES WITH ALL OTHER REQUIREMENTS OF THIS
40 SECTION, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL
41 ATTEMPT TO NOTIFY THE ELECTOR OF THE DEFICIENCY OF THE REQUEST.

42 E. UNLESS AN ELECTOR SPECIFIES THAT THE ADDRESS TO WHICH AN EARLY
43 BALLOT IS TO BE SENT IS A TEMPORARY ADDRESS, THE RECORDER MAY USE THE
44 INFORMATION FROM AN EARLY BALLOT REQUEST FORM TO UPDATE VOTER REGISTRATION
45 RECORDS.

1 ~~E.~~ F. The county recorder or other officer in charge of early
2 balloting shall provide an alphabetized list of all voters in the precinct
3 who have requested and have been sent an early ballot to the election board
4 of the precinct in which the voter is registered not later than the day prior
5 to the election.

6 ~~F.~~ G. As a result of an emergency occurring between 5:00 p.m. on the
7 second Friday preceding the election and 5:00 p.m. on the Monday preceding
8 the election, qualified electors may request to vote early in the manner
9 prescribed by the county recorder of their respective county. For THE
10 purposes of this subsection, "emergency" means any unforeseen circumstances
11 which would prevent the elector from voting at the polls.

12 ~~G.~~ H. A candidate or political committee may distribute early ballot
13 request forms to voters. If the early ballot request forms include a printed
14 address for return to an addressee other than a political subdivision, the
15 addressee shall be the candidate or political committee that paid for the
16 printing and distribution of the request forms. All early ballot request
17 forms that are received by a candidate or political committee shall be
18 transmitted as soon as practicable to the political subdivision that will
19 conduct the election.

20 Sec. 7. Section 16-661, Arizona Revised Statutes, is amended to read:

21 16-661. Automatic recount; requirements; exemption

22 A. A RECOUNT OF THE VOTE IS REQUIRED when the canvass of returns in
23 a primary or general election shows that the margin between the two
24 candidates receiving the greatest number of votes for a particular office,
25 or between the number of votes cast for and against initiated or referred
26 measures, or proposals to amend the Constitution of Arizona, ~~does not exceed~~
27 IS LESS THAN OR EQUAL TO THE LESSER OF THE FOLLOWING:

28 1. One-tenth of one per cent of the number of votes cast for both such
29 candidates or upon such measures or proposals. ~~, or, in any event, does not~~
30 exceed

31 2. Two hundred votes in the case of an office to be filled by state
32 electors, ~~or~~ AND FOR WHICH THE TOTAL NUMBER OF VOTES CAST IS MORE THAN
33 TWENTY-FIVE THOUSAND.

34 3. FIFTY VOTES IN THE CASE OF AN OFFICE TO BE FILLED BY STATE ELECTORS
35 AND FOR WHICH THE TOTAL NUMBER OF VOTES CAST IS TWENTY-FIVE THOUSAND OR LESS.

36 4. TWO HUNDRED VOTES IN THE CASE OF an initiated or referred measure
37 or proposal to amend the constitution. ~~, does not exceed~~

38 5. Fifty votes in the case of a member of the legislature. ~~or does not~~
39 exceed

40 6. Ten votes in the case of an office to be filled by the electors of
41 a county or subdivision thereof, ~~a recount of the vote upon such candidates,~~
42 ~~measures or proposals shall be required.~~

1 B. Subsection A does not apply to elections for precinct committeemen,
2 school district governing boards, community college district governing
3 boards, fire district boards or fire district chiefs or secretary-treasurers
4 or boards of other special districts.

5 Sec. 8. Effective date

6 This act is effective from and after December 31, 2003.

APPROVED BY THE GOVERNOR MAY 19, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2003.

Passed the House March 31, 20 03,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Cheryl Laube
Asst. Chief Clerk of the House

Passed the Senate March 4, 20 03,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Ken Blumenthal
President of the Senate

Norma Chastain
Asst. Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1046

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 12, 2003,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 7, 2003,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Klu Bennett
President of the Senate

Charmine Bellister
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 13 day of May, 2003

at 11:35 o'clock A M.

Sandra Hamy
Secretary to the Governor

Approved this 19 day of

May, 2003,

at 4:30 o'clock P. M.

J. N. ...
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2003,

at 10:53 o'clock A M.

Janice K. Brewer
Secretary of State

S.B. 1046